



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAILED
FROM DIRECTORS OFFICE

AUG 12 2005

TECHNOLOGY CENTER 3600

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D65510 IDSTEIN DE GERMANY

In re Application of
GIOK DJIEN GO
Application No. 09/554,463
Filed: April 19, 2000
For: MULTI-POINT, ONE-PIECE SEAT BELT

:
: **DECISION ON PETITION**
: **TO WITHDRAW THE**
: **HOLDING OF ABANDONMENT**
:

This is in response the letter received July 25, 2005. This letter is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. There is no fee for this petition.

The petition is **DENIED**.

A review of the file record indicates that the application was held abandoned for failing to file a proper response to the Office letter mailed November 23, 2004. A Notice of Abandonment was mailed on June 22, 2005.

Applicant requests that the holding of abandonment be withdrawn and the prosecution of the case be reopened because the abandonment is based on a new allegation, that claim 42 has been amended to include a limitation not disclosed in the specification.

Applicant argues that he timely filed proper papers in response to the Final Rejection mailed June 16, 2004 and to the Advisory Action mailed November 12, 2004.

The filing of an amendment after Final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the Final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal or Request for Continued Examination (RCE) has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

The Office Action mailed June 16, 2004 was a Final Office action. A proper reply under 37 CFR 1.113 to a Final Office Action consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. As indicated in the Advisory Action mailed November 12, 2004, the reply received September 09, 2004 failed to place the application in condition for allowance. As noted in the interview summary dated October 26, 2004, the reply received October 17, 2004 failed to place the application in condition for allowance. As noted in the letter mailed November 23, 2004, the reply received November 10, 2004 was not considered timely filed and it was further noted that the

reply was not in compliance with the manner of making of amendments. Inherently, this reply did not place the application in condition for allowance. Similarly, the letters received December 12, 2004 and April 12, 2004 are not considered timely filed. As no Notice of Appeal (with appeal fee) or timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114 have been received the Notice of Abandonment mailed June 22, 2005 is deemed proper.

Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is \$500. The fee for a petition under the unintentional standard is \$1,500. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

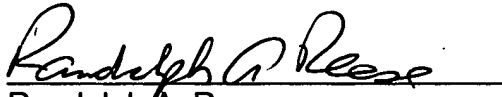
The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries should be directed to the Office of Petitions Staff at (571) 272-3282.


Randolph A. Reese
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RAR/rjc 08/11/05